

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Bail Application No.2261 of 2022

Applicant : Arshad Hanif S/o Muhammad Hanif
through M/s. Hassan Sabir, Salman Sabir
and Sana Abid, Advocates

Respondent : The State
Through Mr. Muhammad Ahmad,
Assistant Attorney General a/w Aftab Ali
Soomro, SHO/SI, FIA SBC, Karachi.

Date of hearing : 29.08.2023

Date of order : 29.08.2023

ORDER

AMJAD ALI SAHITO, J - Through this bail application, applicant seeks pre-arrest bail in FIR No.05/2022 U/s. 109, 420, 489-G PPC R/w Sections 3/4 AMLA, 2010 (Amended 2020) at PS FIA State Bank Circle, Karachi, after his bail has been declined by the learned District & Sessions Judge, Karachi South vide order dated 16.11.2022.

2. The details and particulars of the FIR are already available in the memo of bail application and FIR, which can be gathered from the copy of FIR attached with the application, hence, needs not to reproduce the same hereunder.

3. Per learned counsel for the applicant, the applicant is innocent and has falsely been implicated in this case; that the applicant has been booked in Section 489-G PPC which is not schedule offence of the FIA; that at the most, the applicant has been charged under Sections 3/4 of AMLA, 2010 (amended 2020), for which proceeds of crime has to be established but in this case, the same is lacking; that I.O. has to failed to collect the sufficient evidence to believe that the applicant has acquired, converted, possessed, used or transferred property from proceeds of crime; that in the early part of FIR, the complainant has himself admitted that the applicant is owner of four companies, as such, he has shown reasonable grounds for earning his money; that if any prize bond is purchased by the applicant, even then he has not committed any offence; that the FIA has failed to prove that the

applicant has committed any offence of money laundering; that the applicant is fully cooperating with the I.O., attending the trial Court on each and every date and not misusing the concession of bail. He lastly prays for confirmation of bail.

4. On the other hand, learned Assistant Attorney General duly assisted by the I.O. vehemently opposes for confirmation of bail on the ground that the applicant has not disclosed his source of income, whereas, I.O. of the case submits that he intends to continue the investigation.

5. Heard and perused. From perusal of record, it reflects that the allegation against the applicant is that he has earned ill-gotten money of Rs.19,41,89,050/- for which he has not explained any proper source of income as such the instant FIR was lodged by the FIA. Whereas, on Court's query, I.O. has failed to disclose as to what proceeds of crime against the applicant is available to believe that he has acquired, converted, possessed, used or transferred property illegally. Whereas, Section 3 of AMLA 2010 (Amended 2020) provides that a person shall be guilty of offence of money laundering if the person acquires, converts, possesses, uses or transfers property, knowing or having reason to believe that such property is proceeds of crime, for which I.O. failed to collect any evidence to connect the applicant with alleged offence. It is also admitted position that neither the applicant is a government official nor he is drug peddler. The I.O. of the case admits that the applicant owned the companies. In such circumstances, the case of the applicant is one of further enquiry.

6. So far as the contention of I.O. is concerned that he intends to continue the investigation, it is suffice to say that there is no embargo under the law to continue the investigation against the accused, who is on bail. Furthermore, Section 489-G PPC is also not a scheduled offence of FIA. Learned counsel for the applicant also pleaded malafide on the part of the complainant/I.O.

7. In view of the above stated position, learned counsel for the applicant has made out a case for grant of bail in terms of subsection 2 of Section 497 Cr.P.C. Resultantly, the instant bail application is allowed. The pre-arrest bail granted to the applicant vide order dated 21.11.2022 is hereby confirmed on the same terms and conditions. Applicant/accused is directed to attend the trial as well as investigation as and when required. However, it is

made clear that if the applicant/accused misuse the concession of bail, learned trial Court would be at liberty to take appropriate action. The I.O. would also be at liberty to file cancellation of bail application against the accused, if he does not cooperate with him for further investigation.

8. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the learned trial Court while deciding the case of the applicant on merits.

Kamran/PA

JUDGE